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IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTIETH LEGISLATURE

THIRTY-NINTH LEGISLATIVE DAY
THURSDAY, FEBRUARY 18, 2010

Senate Chamber

At the request of the President Pro Tempore, Senator Darrington called the Senate to order at 10:30 a.m.

Roll call showed all members present except Senator Keough, absent and formally excused by the Chair; and President Pro Tempore Geddes and Senators Cameron and Malepeai, absent and excused.

Prayer was offered by Chaplain Montie Ralstin.

The Pledge of Allegiance was led by Meredith DeMordaunt, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 17, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 119

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DIVISION OF BUILDING SAFETY RELATING TO RULES OF BUILDING SAFETY.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Division of Building Safety relating to Rules of Building Safety is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein,

that IDAPA 07.03.01, Rules of Building Safety, Rules of the Division of Building Safety, adopted as a pending rule under Docket Number 07-0301-0902, the entire rulemaking docket, be, and the same is hereby rejected and declared null, void and of no force and effect.

[SCR 119](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 17, 2010

The JUDICIARY AND RULES Committee reports that Enrolled [S 1292](#) and [S 1293](#) were delivered to the Office of the Governor at 2:55 p.m., February 17, 2010.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

February 17, 2010

The COMMERCE AND HUMAN RESOURCES Committee reports out [H 430](#), [S 1324](#), and [S 1327](#) with the recommendation that they do pass.

ANDREASON, Chairman

[H 430](#), [S 1324](#), and [S 1327](#) were filed for second reading.

February 17, 2010

The STATE AFFAIRS Committee reports out [H 391](#), as amended, [H 414](#), [HCR 38](#), and [HJM 10](#) with the recommendation that they do pass.

MCKENZIE, Chairman

[H 391](#), as amended, and [H 414](#) were filed for second reading.

[HCR 38](#) and [HJM 10](#) were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 17, 2010

The JUDICIARY AND RULES Committee reports out [S 1322](#) and [S 1329](#) with the recommendation that they do pass.

DARRINGTON, Chairman

[S 1322](#) and [S 1329](#) were filed for second reading.

February 17, 2010

The JUDICIARY AND RULES Committee reports out [S 1330](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, [S 1330](#) was referred to the Fourteenth Order of Business, General Calendar.

February 18, 2010

The LOCAL GOVERNMENT AND TAXATION Committee reports out [H 386](#), as amended, with the recommendation that it do pass.

HILL, Chairman

[H 386](#), as amended, was filed for second reading.

February 17, 2010

The TRANSPORTATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Rodger Lee Sorensen to the Idaho Aeronautics Advisory Board, term to expire January 31, 2015.

MCGEE, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

Senator Malepeai was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 17, 2010

Dear Mr. President:

I transmit herewith [H 456](#), which has passed the House.

ALEXANDER, Chief Clerk

[H 456](#) was filed for first reading.

February 17, 2010

Dear Mr. President:

I return herewith [S 1294](#), which has passed the House.

ALEXANDER, Chief Clerk

[S 1294](#) was referred to the Judiciary and Rules Committee for enrolling.

February 17, 2010

Dear Mr. President:

I transmit herewith Enrolled [H 381](#), [H 380](#), and [H 441](#) for the signature of the President.

ALEXANDER, Chief Clerk

The Acting President announced that Enrolled [H 381](#), [H 380](#), and [H 441](#) will be held at the desk for the signature of the President and, when so signed, will be returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1373

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO HOSPITAL LICENSES AND INSPECTION; TO PROVIDE LEGISLATIVE INTENT; AND AMENDING SECTION 39-1392c, IDAHO CODE, TO REVISE

PROVISIONS RELATING TO IMMUNITY FROM CIVIL LIABILITY.

S 1374

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO BASIC DAYCARE LICENSING; AMENDING SECTION 39-1101, IDAHO CODE, TO REVISE POLICY; AMENDING SECTION 39-1102, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 39-1103, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE FOR THE ISSUANCE OF CERTAIN DAYCARE LICENSES BY THE DEPARTMENT UPON COMPLIANCE WITH MINIMUM STANDARDS; AMENDING SECTION 39-1104, IDAHO CODE, TO APPLY CERTAIN REQUIREMENTS TO OWNERS OF DAYCARE FACILITIES, TO PROVIDE THE DEPARTMENT OF HEALTH AND WELFARE DISCRETION TO CHARGE A DAYCARE OWNER OR OPERATOR FOR A REINSPECTION UNDER CERTAIN CIRCUMSTANCES AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-1105, IDAHO CODE, TO REMOVE A LIST OF INFORMATION SOURCES TO BE INCLUDED IN A CRIMINAL HISTORY BACKGROUND CHECK, TO REQUIRE COMPLIANCE WITH AN IDAHO CODE PROVISION AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1106, IDAHO CODE, TO CLARIFY LANGUAGE, TO REVISE WHO IS REQUIRED TO UNDERGO A LIMITED CRIMINAL HISTORY BACKGROUND CHECK, TO REMOVE AN INFORMATION SOURCE TO BE INCLUDED IN CONDUCTING A LIMITED CRIMINAL HISTORY BACKGROUND CHECK, TO PROVIDE FOR THE JURISDICTION IN WHICH A CHECK OF JUVENILE RECORDS IS TO BE CONDUCTED AND TO PROVIDE FOR THE ISSUANCE OF A PROVISIONAL LICENSE; AMENDING SECTION 39-1107, IDAHO CODE, TO REMOVE LANGUAGE REGARDING CERTIFICATION OF A DAYCARE FACILITY, TO CLARIFY FROM WHOM FEES ARE TO BE COLLECTED, TO REVISE LEGISLATIVE INTENT REGARDING FUNDING OF DAYCARE FACILITY LICENSING ADMINISTRATION AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1109, IDAHO CODE, TO REQUIRE DAYCARE OWNERS AND OPERATORS TO COMPLY WITH CERTAIN SAFETY STANDARDS, TO REQUIRE CERTAIN SUPERVISION BY CERTAIN STAFF MEMBERS, TO REVISE THE CHILD TO STAFF RATIOS, THE DETERMINATION OF SUCH RATIOS AND THE MAXIMUM GROUP SIZE, TO REVISE THE MAXIMUM RATIO OF CHILDREN TO STAFF IN MIXED AGE GROUPS AND THE DETERMINATION OF SUCH RATIOS, TO PROVIDE CHILD TO STAFF RATIOS FOR DAYCARE CENTERS WITH SEPARATE ROOMS FOR CHILDREN OF DEFINED AGE GROUPS AND TO PROVIDE REQUIREMENTS FOR CHILD TO STAFF RATIOS AND MAXIMUM GROUP SIZE FOR DAYCARE CENTERS THAT COMBINE CLASSROOMS WITH MIXED AGE CHILDREN; AMENDING SECTION 39-1110, IDAHO CODE, TO REQUIRE DAYCARE OWNERS AND OPERATORS TO COMPLY WITH CERTAIN HEALTH STANDARDS AND TO REVISE TERMINOLOGY; AMENDING SECTION 39-1111, IDAHO CODE, TO PROVIDE RULEMAKING AUTHORITY TO SPECIFY OFFENSES AFFECTING ELIGIBILITY FOR DAYCARE LICENSURE AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1113, IDAHO CODE, TO REVISE FROM WHOM CHAPTER COMPLIANCE IS

REQUIRED, TO REMOVE A LISTING OF OFFENSES DISQUALIFYING A PERSON FROM ELIGIBILITY FOR A DAYCARE LICENSE, TO REMOVE A LISTING OF OFFENSES PRECLUDING ELIGIBILITY FOR A LICENSE FOR FIVE YEARS, TO REMOVE REFERENCE TO A PRIVILEGE TO OPERATE A FAMILY DAYCARE HOME, TO PROVIDE RULEMAKING AUTHORITY FOR OFFENSES PRECLUDING ELIGIBILITY FOR A DAYCARE LICENSE AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1114, IDAHO CODE, TO PROVIDE AN ELECTION TO COMPLY WITH CHAPTER PROVISIONS FOR AN OWNER OF A FAMILY DAYCARE HOME AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1115, IDAHO CODE, TO CLARIFY TO WHOM A GRACE PERIOD MAY BE APPLIED AND TO WHOM CRIMINAL PENALTIES SHALL BE APPLIED AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1117, IDAHO CODE, TO REMOVE REFERENCE TO A CERTIFICATE, TO APPLY DISCLAIMER LANGUAGE TO DAYCARE OWNERS AND OPERATORS AND TO CLARIFY LANGUAGE; AMENDING SECTION 39-1118, IDAHO CODE, TO APPLY CERTAIN IMMUNIZATION REQUIREMENTS TO AN OWNER OF A DAYCARE FACILITY, TO CLARIFY THE AUTHORITY TO PROMULGATE RULES REGARDING DAYCARE OWNERS AND OPERATORS AND TO CLARIFY LANGUAGE; AND AMENDING SECTION 39-1119, IDAHO CODE, TO REQUIRE THE OWNER OR OPERATOR OF A DAYCARE FACILITY TO COMPLY WITH CERTAIN TRAINING REQUIREMENTS AND TO REVISE TERMINOLOGY.

[S 1373](#) and [S 1374](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 456](#), by Agricultural Affairs Committee, was introduced, read the first time at length, and referred to the Agricultural Affairs Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 432](#), by Business Committee, was read the second time at length and filed for third reading.

[S 1339](#), by Health and Welfare Committee, was read the second time at length and filed for third reading.

[S 1319](#), by Local Government and Taxation Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, [S 1323](#) retained its place on the Third Reading Calendar.

On request by Senator Davis, granted by unanimous consent, [S 1305](#) retained its place on the Third Reading Calendar for Wednesday, February 24, 2010.

On request by Senator Davis, granted by unanimous consent, [H 421](#) retained its place on the Third Reading Calendar for Monday, February 22, 2010.

Senator Cameron was recorded present at this order of business.

[H 412](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator

Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Geddes, Keough. Total - 2.

Total - 35.

Whereupon the Acting President declared [H 412](#) passed, title was approved, and the bill ordered returned to the House.

[H 413](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Geddes, Keough. Total - 2.

Total - 35.

Whereupon the Acting President declared [H 413](#) passed, title was approved, and the bill ordered returned to the House.

President Pro Tempore Geddes was recorded present at this order of business.

[S 1323](#), having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS—None.

Absent and excused—Keough. Total - 1.

Total - 35.

Whereupon the Acting President declared [S 1323](#) passed, title was approved, and the bill ordered transmitted to the House.

President Pro Tempore Geddes assumed the Chair.

[H 437](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Call of the Senate was requested by Senator Darrington.

Whereupon the President Pro Tempore ordered the doorkeepers to lock the doors permitting no Senator to leave the Senate Chamber. The Sergeant at Arms was instructed to find and present any absent members to the Senate.

Roll call showed all members present except Senators Cameron, Malepeai, McGee, Stegner, and Werk, absent; and Senator Keough, absent and formally excused by the Chair.

The President Pro Tempore directed the Sergeant at Arms to find and present Senators Cameron, Malepeai, McGee, Stegner, and Werk to the Senate.

Senators Cameron, Malepeai, McGee, Stegner, and Werk were recorded present.

On request by Senator Darrington, granted by unanimous consent, the Call was lifted.

The question being, "Shall [H 437](#) pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS—None.

Absent and excused—Keough. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared [H 437](#) passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fourteenth Order of Business.

General Calendar

The President declared the Senate resolved into the Committee of the Whole and called Senator Stegner to the Chair to preside during the sitting of the Committee of the Whole.

Following the adjournment of the Committee of the Whole, the President called the Senate to order.

Report of the Committee of the Whole

Senator Stegner, Chairman of the Committee of the Whole, reported out [H 382](#), [S 1252](#), and [S 1320](#), without recommendation, amended as follows:

SENATE AMENDMENT TO H 382

AMENDMENT TO SECTION 3

On page 2 of the printed bill, in line 40, following "required" insert: "under subsection (4) of section 63-3022L, Idaho Code" and in line 41 following "on" insert: "any actual distributions of funds from".

SENATE AMENDMENT TO S 1252

AMENDMENT TO SECTION 1

On page 2 of the printed bill, in line 31, delete "~~fifty~~ (~~+50~~)" and insert: "twenty-five (~~+25~~)"; and in line 33, delete "tenth" and insert: "~~tenth~~ twenty-fifth".

SENATE AMENDMENT TO S 1320

AMENDMENT TO THE BILL

On page 3 of the printed bill, following line 17, insert:

"SECTION 4. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval."

CORRECTION TO TITLE

On page 1, in line 5, following ";," delete "AND" and in line 7, following "POWERS" insert: "; AND DECLARING AN EMERGENCY".

The Committee also has [S 1330](#) under consideration, reports progress, and begs leave to sit again.

STEGNER, Chairman

On motion by Senator Stegner, seconded by Senator Werk, the report was adopted by voice vote.

[S 1252](#), as amended, and [S 1320](#), as amended, were referred to the Judiciary and Rules Committee for engrossing and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

[H 382](#), as amended in the Senate, was filed for first reading as amended, and the amendments thereto were referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:15 p.m. until the hour of 10:30 a.m., Friday, February 19, 2010.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary